

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

ZAKEE KALEEM ABDULLAH, #824088 §

VS. § CIVIL ACTION NO. 5:08cv61

ROBERT NEWSOM §

ORDER OF DISMISSAL

Plaintiff Zakee Kaleem Abdullah, an inmate confined in the Texas prison system, proceeding *pro se* and *in forma pauperis*, filed the above-styled and numbered civil rights lawsuit against the Honorable Robert Newsom, Judge of the Eighth Judicial District Court of Hopkins County, Texas. The complaint was referred to United States Magistrate Judge Caroline M. Craven, who issued a Report and Recommendation concluding that the complaint should be dismissed. The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Plaintiff are without merit.

The Report correctly noted that Judge Newsom is immune from liability in federal court for actions performed in his judicial capacity. *Dennis v. Sparks*, 449 U.S. 24, 27 (1980); *Stump v. Sparkman*, 435 U.S. 349 (1978). The Plaintiff's objections did not address the reason explained in the Report for recommending dismissal. The Plaintiff, instead, complained that the Report was filed

within the thirty day period of time he was given to voluntarily dismiss the lawsuit. He was referring to the Order Regarding Collection and Payment of Full Filing Fee (docket entry #7), filed on May 12, 2008, which ended with a notice that he had thirty days to file a motion to voluntarily dismiss the lawsuit. The Report and Recommendation was filed within the thirty day period on May 22, 2008. Also, the Report and Recommendation was not the final dismissal. Its entry did not preclude his voluntarily dismissing his lawsuit. The Plaintiff did not file a motion to voluntarily dismiss the complaint within the thirty day time period. His objections do not show that the complaint should not be dismissed. The Report correctly included a conclusion that the lawsuit fails to state a claim upon which relief may be granted and is frivolous in that it lacks any basis in law and fact, thus it should be dismissed pursuant to 28 U.S.C. § 1915A(b)(1). Therefore the findings and conclusions of the Magistrate Judge are adopted as the findings and conclusions of the Court. It is accordingly

ORDERED that the complaint is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915A(b)(1). All motions not previously ruled on are **DENIED**.

SIGNED this 23rd day of June, 2008.



DAVID FOLSOM
UNITED STATES DISTRICT JUDGE